IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1090 of 2007

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAKUBHAI @ MANOJBHAI LAKHMANBHAI PARMAR - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR SP MAJMUDAR for Applicant(s) : 1,MR YJ PATEL for Applicant(s) : 1,
MR KT DAVE, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,
MS BHARTI H RANA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 28/09/2007

ORAL JUDGMENT

1. Rule. Shri K.T.Dave, learned APP waives service of rule on behalf of the respondent No.1 – State and Ms. Bharti Rana, learned advocate waives service of rule on behalf of the respondent No.2

– original complainant. With the consent of the learned advocates appearing on behalf of the respective parties, the matter is taken up for final hearing today.

2. By way of this petition under section 482 of the Cr.P.C., the petitioner – original accused has prayed for an appropriate order to quash and set aside the impugned complaint / FIR being CR II No. 3018 of 2007 registered with Chuda Police Station for the offences alleged against the petitioner under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989.

3. At the outset, it is required to be noted that initially the petitioner requested to quash and set aside the entire FIR, however, at the time of hearing of the present petition on 6.7.2007, the learned advocate appearing for the petitioner made a statement that the petitioner does not press the present petition for quashing

the complaint so far as offences under sections 504 and 506(2) of the IPC are concerned and he restricts the present petition qua the application with regard to the offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989. Under the circumstances, this Court is required to consider the present petition qua the allegations against the petitioner with regard to offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989.

4. Shri Majmudar, learned advocate appearing for the petitioner has vehemently submitted that even on bare reading of the averments and allegations in the impugned complaint, no case is made out against the petitioner for the offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989. It is submitted that even if taking the complaint as it is, still no case is made out against the petitioner for the

aforesaid offences. Under the circumstances, it is submitted that to continue the criminal proceedings against the petitioner for the aforesaid offences would be abuse of process of Court and unnecessary harassment to the petitioner and therefore, it is requested to quash and set aside the impugned complaint / FIR qua the aforesaid offences. It is further submitted that during the pendency of the present proceedings, charge sheet has already been filed against the petitioner for the aforesaid offences. Under the circumstances, the same is also required to be quashed and set aside.

5. Shri K.T.Dave, learned APP appearing for the respondent No.1 – State as well as Ms. Bharti Rana, learned advocate appearing for the respondent No.2 – original complainant are not in a position to satisfy this Court with regard to the allegations against the petitioner for the offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention

of Atrocities) Act; 1989.

6. Considering the averments and allegations in the complaint / FIR, it appears to the Court that as such, there are no allegations at all against the petitioner for the offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989. When there are no allegations against the petitioner for the offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989, to continue criminal proceedings for the aforesaid offences against the petitioner would be abuse of process of Court and unnecessary harassment to the petitioner. Under the circumstances, this is a fit case to exercise the powers under section 482 of the Cr.P.C. Consequently, the charge sheet filed against the petitioner for the aforesaid offences also requires to be quashed and set aside.

7. For the reasons stated above, petition succeeds. Impugned complaint being CR II No.3018 of 2007 registered with Chuda Police Station as well as the charge sheet filed against the petitioner arising out of the said FIR for the offences under section 3(1)(x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act; 1989 is hereby quashed and set aside. Rest of the complaint and the charge sheet to be continued and for which the trial may be proceeded further in accordance with law and on merits. Rule made absolute to the aforesaid extent.

(M.R.Shah, J.)

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